

PEARSON, J.

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

LORENZO THIGPEN,	)	
	)	CASE NO. 1:17CV02196
Petitioner,	)	
	)	JUDGE BENITA Y. PEARSON
v.	)	
	)	
EDWARD SHELDON, Warden,	)	
	)	<b><u>MEMORANDUM OF OPINION</u></b>
Respondent.	)	<b><u>AND ORDER</u></b>

*Pro Se* Petitioner Lorenzo Thigpen, currently an inmate at the Mansfield Correctional Institution, filed a Petition for a Writ of Habeas Corpus pursuant to [28 U.S.C. § 2254](#) ([ECF No. 1](#)), alleging three (3) grounds challenging the constitutional sufficiency of his convictions in Cuyahoga County, Ohio Court of Common Pleas [Case No. CR-12-563007](#). The case was referred to Magistrate Judge David A. Ruiz for a Report and Recommendation pursuant to [28 U.S.C. § 636](#) and [Local Rule 72.2\(b\)\(2\)](#). On November 6, 2019, the magistrate judge issued a Report and Recommendation ([ECF No. 21](#)). In his Report, the magistrate judge finds that all of Petitioner's Grounds for Relief are procedurally defaulted and he fails to establish sufficient cause or prejudice to overcome the procedural default. He also finds that Petitioner has not identified any new, reliable evidence to establish actual innocence in order to overcome the procedural default. The magistrate judge, therefore, recommends that the Court dismiss the petition. Petitioner was specifically warned in the Report that pursuant to [Thomas v. Arn, 474 U.S. 140 \(1985\)](#), [reh'g denied, 474 U.S. 1111 \(1986\)](#), and [United States v. Walters, 638 F.2d 947](#)

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[\(6th Cir. 1981\)](#), failure to file timely objections to the Report may constitute a waiver of his arguments on appeal. See [ECF No. 21 at PageID #: 2143](#).

Petitioner requested and was granted a 30-day extension of time in which to file Objections. See [ECF No. 22](#) and Non-document Order dated November 25, 2019. Any objections to the Report were to be filed on or before December 26, 2019 – 30 days after the last day he had to file his objections to the Report. Pursuant to the mailbox rule formulated by the United States Supreme Court, see [Houston v. Lack, 487 U.S. 266, 269-72, 276 \(1988\)](#), which has been extended to the filing of various other documents, including objections to a magistrate judge’s report, Petitioner filed his Objections ([ECF No. 23](#)) at the moment the document was delivered to prison officials for forwarding to the Clerk of Court on December 30, 2019. See [ECF No. 23 at PageID # 2157](#). On January 2, 2020, the Court received and thereafter docketed Petitioner’s Objections. Despite being granted an extension of time, Petitioner still failed to timely file his objections.

The Court finds that the “interest of justice” exception to the *Walters* rule, discussed in [Kent v. Johnson, 821 F.2d 1220, 1222-23 \(6th Cir. 1987\)](#), is not applicable to this case. Petitioner has not shown that his case presents any exceptional circumstances warranting departure from the rule. The Court further finds that Petitioner’s untimely Objections ([ECF No. 23](#)) are barred and his arguments are waived. [Thomas, 474 U.S. at 155](#); [Keeling v. Warden, Lebanon Corr. Inst., 673 F.3d 452, 458 \(6th Cir. 2012\)](#) (a district court may resolve a case on the grounds of waiver when a party, after proper notification, fails to file timely objections to a magistrate judge’s report); [Walters, 638 F.2d at 949-50](#); [Romanda v. Bunting, No. 3:14CV1946,](#)

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[2015 WL 6964596 \(N.D. Ohio Nov. 10, 2015\)](#), *reconsideration denied*, No. 3:14CV1946 (N.D. Ohio Dec. 14, 2015) (Katz, J.) (finding objections were filed two days after the expiration of the extension of time).

Accordingly, the Report and Recommendation of the magistrate judge is hereby adopted. Lorenzo Thigpen's Petition for a Writ of Habeas Corpus will be dismissed.

The Court certifies, pursuant to [28 U.S.C. § 1915\(a\)\(3\)](#), that an appeal from this decision could not be taken in good faith, and that there is no basis upon which to issue a certificate of appealability. [28 U.S.C. § 2253\(c\)](#); [Fed. R. App. P. 22\(b\)](#).

IT IS SO ORDERED.

April 30, 2020  
Date

/s/ Benita Y. Pearson  
Benita Y. Pearson  
United States District Judge